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**U.S. Citizenship
and Immigration
Services**

D7

FILE: WAC 00 108 52928 Office: CALIFORNIA SERVICE CENTER

DATE: 02 2004

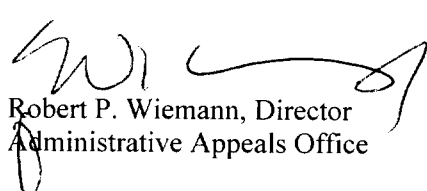
IN RE: Petitioner:
Beneficiary:

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

This is the decision of the AAO in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, California Service Center. The petitioner filed a motion to reopen or reconsider, which was granted by the director, and the director's decision was affirmed. The petition is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner seeks classification as a nonimmigrant manager or executive pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The director determined that the petitioner had failed to demonstrate that the beneficiary has been employed in a primarily managerial or executive capacity as defined by 8 C.F.R. § 214.2(l)(1)(ii)(B)-(C).

On appeal, counsel for the petitioner submits a form I-290B accompanied by a brief statement. Specifically, counsel states:

The . . . denial of the instant petition was an abuse of discretion and not based on substantial evidence. The denial erroneously [sic] assumed that an L-1 for an employee to come to the US to open [a] new office must prove that the company [sic] has existed and [is] operating, this is absurd. The INA and the regulations explicitly permits [sic] the beneficiary to come to the United States to begin operations of the company newly formed. There is no requirement that the company be operating and generating substantial business at the time of the application. Therefore, [CIS] erred and its decision should be overturned.

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. The filing by an attorney of an appeal that is summarily dismissed under this section may constitute frivolous behavior as defined in 8 C.F.R. § 292.3(a)(15).

Counsel here has not addressed the reasons stated for denial and has not provided any additional evidence. The appeal must therefore be summarily dismissed.

ORDER: The appeal is summarily dismissed.